IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Writ Petition No. 163 (S/B) 2001
(Old No. 25686/1997)

Dr. Smt. Shahnaaz Fatima Najamuddin,
W/o Dr. Najammuddin,
University Medical Officer,
Roorkee University Hospital, Roorkee,
District Haridwar ……..…….. Petitioner

Versus

The Vice Chancellor,
Roorkee University, Roorkee,
Distt. Haridwar & others. ……..... Respondents

Mr. Sharad Sharma, Advocates for the petitioner.
Mr. Shobhit Saharia i/b Mr. U.K. Uniyal, Advocates for the respondents.

Coram: Hon. S.H.Kapadia, C.J.
Hon. M.M.Ghildiyal, J.

Dated: 10.11.2003:

PC:

By this petition, petitioner seeks to challenge order dated 9th July 1997 passed by Roorkee University, District Haridwar. By the impugned order dated 9th July 1997 services of the petitioner were terminated with effect from 9th August 1997.

FACTS

Petitioner did her M.B.B.S. in 1974. Thereafter she did her course in D.C.G.O. in 1983 from the Advanced Society of Medical Sciences, Delhi. She worked as Junior Resident Medical Officer in Medicines and Gynaecology in Safdarjang Hospital, New Delhi. She has also worked abroad. Her bio-data is annexed to the petition as Annexure No. I.

Petitioner was appointed on Ad-hoc basis, on 22nd May 1990. It was a contractual appointment. Her appointment was upto 31st July 1990. Thereafter her appointment has been extended from time to time. By letter dated 10th September 1991

petitioner was allowed to continue in her Ad-hoc appointment as Medical Officer beyond 31st July 1991 up to 3rd January 1992 or till such time as the post is filled in through regular selection whichever is earlier. On 19th February 1992 she was continued for six months or till regular selection whichever is earlier. On 20th June 1991, two posts of Medical Officers were advertised. Petitioner challenged the advertisement by filing writ petition No. 26751/92 before the Allahabad High Court. Pursuant to the advertisement, which was not stayed the selection process got completed. However, no suitable candidate came to be selected. Therefore, the petitioner continued to work as Medical Officer (Ad-hoc). On 28th June 1993 there was a fresh advertisement for two posts. Petitioner took part in the selection process. She was not selected. She filed writ petition No. 45971/93. The selection process was not stayed. None was found eligible. Consequently, petitioner continued to work as Medical Officer (Ad-hoc). On 7th June 1996 two posts were advertised in the category of Medical Officers, one for Scheduled Caste and other in General category. This advertisement was challenged by the petitioner. The selection process was not stayed. However, none of the candidates were selected. Therefore, the petitioner once against continued to work as Medical Officer. However, the petitioner continued under order of H.C.

In the mean time on 12th November 1996 the Syndicate passed a resolution bearing No. 244 in the matter of regularization of all employees who have been working in temporary and Ad-hoc basis on long duration. It is the case of the petitioner that in view of a resolution bearing No. 244 passed by Syndicate, her services should be regularized as Medical Officer. We do not find any merit in this petition on the point of regularization. The facts indicate that the resolution of the Syndicate is dated 12th November 1996. The resolution is bearing No. 244.8.2. It refers to regularization of the temporary teachers and also to non-teaching staff working temporarily. In our view resolution No. 244.8.2 is not applicable because on the facts of our

case it is clear that advertisements were issued from time to time; that selection process was put under operation from time to time; that the appointment of the petitioner as a Medical Officer was contingent upon selection of a suitable candidate by way of selection process and that she continued over the years only for want to suitable candidate being selected on regular basis. In the circumstances, in our view resolution bearing No. 244.8.2 is not applicable to the facts of this case.

Before concluding, however, we would like to point out that the University is free to advertise the post. We are informed that there is no bar as far as the petitioner's age is concerned. Petitioner has been working as a Medical Officer right from 22nd May 1990 and she should be given weightage for her services if she applies under the proposed advertisement. This would meet ends of justice.

We are directing the University to expedite issuance of advertisement at the earliest.

Accordingly writ petition is disposed of.

No order as to costs.

(M.M. Ghildiyal, J.) **(S.H. Kapadia, C.J.)**

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